

HELEN E. FERRIS

IBLA 76-617

Decided September 9, 1976

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting appellant's simultaneously filed oil and gas lease offer, NM 27947.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

A simultaneous oil and gas entry card must be signed and fully executed by the applicant. A decision rejecting such an offer will be upheld where failure to complete the date on the card renders the applicant's certification as to qualifications ineffective and causes the entry card to be incomplete.

APPEARANCES: Helen E. Ferris, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

This appeal is brought from a decision of the New Mexico State Office, Bureau of Land Management (BLM), rejecting appellant's simultaneously filed noncompetitive oil and gas lease offer (NM 27947) for failure of the appellant to date the application properly. Appellant explains in her statement of reasons for appeal that the card was prepared ahead of time leaving a blank space between the month and the year in the date where the day of the month could be inserted later. Appellant contends that the omission of the day of the month from the date on the card was an inadvertent error which she committed while acting in good faith. Appellant further alleges that the complete date was properly supplied by the filing fee check which accompanied the application.

Appellant filed an oil and gas lease offer on a simultaneous oil and gas entry card which was drawn first in priority for the relevant parcel in the drawing held by the State Office on April 5, 1976. The place designated on the entry card for the date of the

lease offer bears the following notation: "Mar. '76." Thus, the day of the month was omitted from the date.

A noncompetitive oil and gas lease for lands not within the known geological structure of a producing oil or gas field must be issued, if a lease is to be issued at all, to the first qualified applicant for a lease of the land. 30 U.S.C. § 226(c). Under the simultaneous filing procedure, 43 CFR Subpart 3112, a lease "will be issued to the first drawee qualified to receive a lease" upon timely payment of the first year's rental. 43 CFR 3112.4-1.

Among the affirmations of qualifications to hold oil and gas leases which the regulations require a lease offeror to make is a signed statement setting forth that the offeror's interests in oil and gas leases do not exceed the acreage limit. 43 CFR 3102.1. Another affirmative statement of qualifications to hold oil and gas leases required of applicants is a signed statement by the offeror regarding whether or not he is the sole party in interest in the lease offer (additional information is required if there are other parties in interest). 43 CFR 3102.7.

[1] The simultaneous oil and gas entry card (Form 3112-1, May 1974) is a form designed to insure compliance with the requirements of the regulations regarding qualifications. When it is completed, signed, and dated, it contains a statement of qualifications certified to by the applicant. This is one reason why the regulations require that the form be signed and fully executed. 43 CFR 3112.2-1(a).

The signing of the card is the certification of all of the statements made on the card and the failure to sign the entry card necessitates rejection of the lease offer. Ray Flamm, 24 IBLA 10, 11 (1976); Thomas Buckmann, 23 IBLA 21, 22 (1975). This Board has also held that postdating the entry card renders the signature ineffective as of the time of submission and requires rejection of the offer. Ray Flamm, *supra* at 11. The logic of the latter case applies to the present circumstances where the date has not been completed. The failure of appellant properly to date the application requires rejection of the lease offer.

The requirement of full execution of the card is not satisfied by the date on the filing fee check submitted with the offer. The check and the entry card are two completely different instruments executed for different purposes.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Anne Poindexter Lewis  
Administrative Judge

I concur:

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Frederick Fishman  
Administrative Judge

## ADMINISTRATIVE JUDGE STUEBING CONCURRING:

My concurrence in the majority opinion is obligatory under the long list of precedents set by this Board in appeals relating to errors and omissions on drawing entry cards. The regulation, 43 CFR 3112.2-1, requires that the card be "fully executed," and we have consistently affirmed decisions rejecting offers which failed to conform strictly and literally to the letter of that requirement.

However, I wish to declare for the record that the result in this case does not accord with my personal attitude. The appellant entered the date in two places on the card as "Mar. '76," omitting the reference to the specific day. It was then transmitted to the Bureau on March 15, 1976. As the card reads, it should stand as evidence that she executed the offer and her certificate of qualification at some time during the first 15 days of March 1976, which is within reasonable chronological proximity to the date of filing and, in my view, there is no more practical need for us to know the specific day than there is for us to know the precise time when she signed.

Nevertheless, there is authority for the proposition that "Date," in its ordinary meaning imports the day, month, and year. Gray v. Reorganized School Dist. R-4 of Oregon County, 356 S.W. 2d 55 (Sup. Ct. Mo. 1962), and cases collected in 11 Words and Phrases, "Date," at 154.

Accordingly, despite my inclination to regard the omission as mere harmless error, I must concur in the result reached by the majority. That result at least assures uniform administration of the law and equality of treatment of offers, a matter of special concern where, as here, the rights of the offerors holding second and third priorities are also at issue.

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Edward W. Stuebing  
Administrative Judge

